

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of:)

End User Common Line Charges)

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CC Docket No. 95-72

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JUN 29 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

COMMENTS OF
TELE-COMMUNICATIONS ASSOCIATION

Tele-Communications Association ("TCA"), by its attorneys, respectfully submits its comments regarding the above-captioned Notice of Proposed Rulemaking ("Notice").¹

TCA commends the Commission for acknowledging the need to reconsider the access charge treatment of ISDN. For the reasons discussed herein, TCA urges the Commission to apply one subscriber line charge ("SLC") to each copper pair used to provide ISDN.

I. INTRODUCTION

TCA is an association of telecommunications managers. Its members represent hundreds of small, medium, and large users of telecommunications services, including companies, government agencies, health care institutions, and colleges and universities. These entities are sophisticated users of a wide range of advanced communications capabilities, including ISDN.

The Notice commendably acknowledges the need to "avoid erecting regulatory barriers to the development of beneficial

new technologies."² At the same time, however, the Commission is concerned that altering its current treatment of ISDN -- under which each derived channel is assessed a separate SLC -- may place upward pressure on the carrier common line charge and thereby on long distance rates. Accordingly, the Commission seeks comment on a series of alternatives, ranging from imposing a single SLC per facility to retaining the existing per-channel assessment.

As discussed herein, TCA believes that the current treatment of ISDN is insupportable as a matter of policy and economics. From a policy perspective, the multiple SLC burden acts as a heavy tax on an efficiency-enhancing service, creating perverse incentives and impeding access by residential and smaller business customers to advanced information network capabilities. From an economic perspective, the current treatment grossly over-recovers the common line costs associated with ISDN. Indeed, the alternative favored by TCA -- applying one SLC per copper pair -- will itself likely over-recover those costs. Nonetheless, it is an administratively simple, roughly equitable approach that would achieve the Commission's objectives while avoiding any risk of long distance rate increases.

² Notice at ¶ 17.

II. THE COMMISSION SHOULD ASSESS ONE SLC ON EACH COPPER PAIR USED TO DELIVER ISDN ACCESS SERVICES.

A. ISDN Use Should Be Encouraged, Not Deterred.

ISDN enables consumers simultaneously to transmit voice, data, fax, and other information over a single (for basic rate) or double (for primary rate) copper pair. Moreover, the transmission is digital, enabling greater accuracy and higher communications speeds than analog POTS.³ For residential and single line business customers who invest in ISDN terminal equipment, basic rate ISDN offers substantial opportunities to increase productivity and efficiency. For larger businesses, primary rate ISDN yields correspondingly greater potential efficiency gains.

The Commission has often articulated the tremendous social and economic benefits stemming from digital access to advanced information networks. ISDN represents a currently available means of bringing many of these benefits to a wide universe of consumers, without necessitating massive upgrades in network transmission infrastructure.⁴ While ISDN does not

³ Each ISDN bearer channel can transmit at 64 kbps -- roughly four to six times the transmission speeds available using POTS with the most common modems.

⁴ See letter from Clarence Irving, Assistant Secretary of Commerce for Communications and Information, to Reed Hundt, dated March 17, 1995 ("Irving letter"), at 2:

ISDN is an important low cost, near-term technology for the Information Superhighway. Consumers, businesses and educators are using this service for high-speed Internet access, telecommuting, video conferencing, and PC-based collaboration.

permit true high bandwidth communications, it does, for many applications, sufficiently relieve the serious capacity limitations of POTS. Its use therefore should be encouraged.

Of course, the assessment of multiple SLCs on basic and primary rate ISDN has precisely the opposite effect. Imposing two SLCs on basic rate ISDN may increase the cost to the user by 20 percent or more, and for primary rate ISDN, the increase may be closer to 30 percent.⁵ Bell Atlantic has estimated that increases of this magnitude will cause a 35-40 percent reduction in business demand for PRI ISDN, a 25-30 percent decline in business demand for BRI ISDN, a 60 percent drop in consumer demand for BRI ISDN, and will force 10-25 percent of existing ISDN customers to discontinue service.⁶ Accordingly, the current access charge treatment of ISDN perversely deters usage of this efficiency enhancing service.⁷

The Commission recognized the deleterious consequences of such above-cost pricing twelve years ago, when it first adopted its access charge rules:

As telecommunications plays a larger and larger role in fundamental U.S. industries, the problems resulting from

⁵ Bell Atlantic Emergency Petition for Waiver of Section 69.104, filed Feb. 10, 1995 ("Bell Atlantic Petition"), attached Declaration of Brian Cowman at 2.

⁶ Bell Atlantic Petition, supra note 6, at 7-8.

⁷ See Irving letter at 2: "A significant increase in the cost of ISDN could severely reduce demand just as the market for this service is poised to take off."

inappropriate pricing grow. ... Access pricing that does not reflect cost can turn computer technologies from directions that would enhance the productivity of this essential U.S. industry and all of the industries that depend on computers and communications toward simple avoidance of non-cost based telecommunications prices. Investment may be misdirected as a result.⁸

This warning is particularly apt with respect to ISDN, which, if properly priced, could greatly expand the availability of efficient, enhanced computer communications. Consequently, to fulfill its statutory obligation to "encourage the provision of new technologies and services to the public,"⁹ the Commission should discontinue the current policy of applying a SLC to each ISDN derived channel.

B. Applying One SLC to Each Copper Wire Pair Is Economically Rational and Will Not Cause an Increase in the Carrier Common Line Charge.

The subscriber line charge is intended to recover a portion of the costs associated with the common line -- that is, the copper pair between the subscriber's premises and the LEC end office. Common line costs are partly a function of the facilities and partly (or even mostly) labor-related. The provision of ISDN does not require any modification of the local loop facilities. Rather, it involves use of ISDN line cards with a digital switch -- costs more properly associated with the local switching element than the common

⁸ MTS/WATS Market Structure, Third Report and Order, 93 F.C.C.2d 241, 252 (1983).

⁹ 47 U.S.C. § 157(a).

line.¹⁰ Therefore, no extra common line costs are incurred when a LEC provides ISDN.

Against this background, basic rate ISDN plainly should contribute no more than a single SLC. Derivation of two bearer channels does not increase the costs of the common line, and imposition of additional SLCs accordingly compels a valuable new service to subsidize POTS (or, more accurately, switched long distance service). Such a result contravenes each objective of the access charge rules¹¹ by placing an unreasonable burden on a particular class of users, deterring efficient use of the local network, promoting uneconomic bypass,¹² and impeding the affordable availability of an offering that many believe should be part of universal service.

TCA also submits that assessment of a single SLC is the most rational treatment of primary rate ISDN. Although this

¹⁰ Accordingly, TCA disagrees with the Commission's suggestion that the number of SLCs applied "could be based on a ratio of the average LEC cost of providing a derived channel service, such as a BRI or PRI ISDN connection, to the average cost of providing an ordinary local loop or T-1 connection, including the line or trunk card costs in both cases." Notice at ¶ 22. It is not evident that the line or trunk card costs, for either POTS or ISDN, should be considered part of the common line instead of part of the switching element.

¹¹ See MTS/WATS Market Structure, Memorandum Opinion and Order, 97 F.C.C.2d 682, 683 (1983).

¹² As the Commission recognizes, an unwarranted increase in support flows can stimulate uneconomic entry. Notice at ¶ 14.

offering utilizes a second copper pair, it seems evident that the local loop-related costs of providing the service are far less than twice the local loop-related costs of basic rate ISDN. Nonetheless, determining the actual cost relation would necessitate an intrusive and time-consuming investigation. Accordingly, TCA is willing to support assessment of two SLCs on primary rate ISDN access as a reasonable approximation of underlying costs. This approach almost certainly over-recovers the associated common line-related costs, but should ameliorate any concern that long distance telephone users might be subsidizing business customers (who are the usual subscribers to primary rate ISDN).

The Notice expresses three concerns about reducing the SLC burden on ISDN. First, it suggests that any decrease in the number of SLCs will inevitably cause an increase in the carrier common line charge, since these two elements combine to recover the common line revenue requirement.¹³ Second, it asserts that applying SLCs based on the number of copper pairs, as TCA suggests, "is not feasible if a customer's local loop is provided over coaxial or fiber optic cable."¹⁴ Third, it claims that a reduced SLC option leads to lower SLCs for large business customers than for residential and

¹³ Notice at ¶ 18.

¹⁴ Id. at ¶ 25.

single line business customers.¹⁵ None of these concerns has merit.

As an initial matter, the assumption that the CCL will have to increase ignores the effects of demand stimulation. Reducing the number of SLCs assessed on ISDN lines should significantly boost traffic, thereby producing sufficient usage-sensitive CCL revenues to offset any loss in SLC revenues and avoid the need for an increase in the CCL. Indeed, the current access charge treatment of ISDN lines artificially depresses demand, particularly for primary rate ISDN, and therefore leads to inefficient use of the local network and, theoretically, to artificially high CCL levels.¹⁶

Moreover, there is no basis for concerns about inconsistent treatment of copper, fiber, and coax access facilities. For now, and at least for the next several

¹⁵ Id. at ¶ 26.

¹⁶ In practice, TCA seriously doubts that either the current access charge treatment of ISDN or application of a single SLC to each ISDN facility would have more than a de minimis effect on the CCL charge. The base of interstate minutes is so high, and demand for ISDN under either scenario so low, in relative terms, that any impact on the CCL charge is likely to be lost in the rounding.

TCA recognizes that this assumption could be mistaken if reduction of the SLC burden on primary rate ISDN led customers to substitute that service for existing T1 access. Such a scenario is highly unlikely, however. Even if only two SLCs are applied to primary rate ISDN, this service is priced so high relative to T1 access that it is an uneconomic choice for most users.

years, copper is and will remain the prevalent access technology, particularly for residential and small business users. Even if this were not the case, application of two SLCs to primary rate ISDN and one to basic rate ISDN is sound policy, and therefore such treatment is warranted without regard to the underlying access technology.

Finally, the approach advocated by TCA does not produce lower SLCs for large businesses than for residential and single line business customers. A large business subscriber to primary rate ISDN would generally pay twelve dollars per month in SLC charges, while a residential or single-line business subscriber to basic rate ISDN would pay \$3.50 per month. The apparently lower per-derived channel rate for the primary rate ISDN customer is irrelevant as a matter of economics; as explained above, costs are incurred on a per-facility, not a per-channel basis. Accordingly, there is no subsidy flowing from smaller to larger customers.

Taking a broader view, TCA certainly acknowledges that applying special rules to ISDN may create disharmonies with the remainder of the access charge rules.¹⁷ This is no reason, however, to avoid treating ISDN more rationally, particularly given the public policy justifications for doing so. To make the rules as a whole more rational, TCA supports

¹⁷ For example, the same reasoning that supports application of no more than two SLCs to primary rate ISDN supports similar treatment of T1 access.

initiation of a broad access charge reform docket, as the Commission's own staff, the Ad Hoc Users Committee, the United States Telephone Association, and others have advocated. In that broader proceeding, the Commission can adopt more sweeping revisions that focus on possible new cost recovery mechanisms and assure that SLC assessment for all services is based on underlying costs.

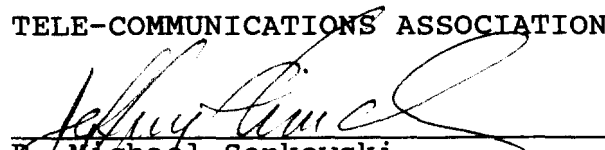
III. CONCLUSION

For the foregoing reasons, TCA urges the Commission to apply a single SLC to each copper pair used to provide ISDN access, and to institute a comprehensive proceeding to update and rationalize its access charge rules and policies.

Respectfully submitted,

TELE-COMMUNICATIONS ASSOCIATION

By:


R. Michael Senkowski
Jeffrey S. Linder
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

Its Attorneys

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of June, 1995, I caused copies of the foregoing "Comments of Telecommunications Association" to be hand-delivered to the following:

Peggy Reitzel
Policy and Program Planning Division
Common Carrier Bureau
1919 M Street, N.W.
Room 544
Washington, D.C. 20554

International Transcription Services
2100 M Street, N.W.
Suite 140
Washington, D.C. 20037


Robin B. Walker